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9 **TIMESHA LEE**

FILED

OCT - 4 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

E-filing

ADR

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

Case No. **C12-5157 DMR**

12 **TIMESHA LEE,**

13 Plaintiff,

14 vs.

15 **DIVERSIFIED COLLECTION**
16 **SERVICES, INC.; and DOES 1 to 10,**
17 **inclusive,**

18 Defendants.

COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

19 **COMPLAINT**

20 **INTRODUCTION**

21 1. This is an action for actual and statutory damages brought by Plaintiff,
22 Timesha Lee, an individual consumer, against Defendant, Diversified Collection
23 Services, Inc., for violations of the law, including, but not limited to, violations of
24 the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter
25

1 “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive,
2 and unfair practices.

3 **VENUE AND JURISDICTION**

4 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28
5 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and
6 2202. Venue in this District is proper in that the Defendant transacts business here.

7 **PARTIES**

8 3. Plaintiff, Timesha Lee, is a natural person with a permanent residence
9 in San Pablo, Contra Costa County, California 94806.
10

11 4. Upon information and belief the Defendant, Diversified Collection
12 Services, Inc., is a corporation engaged in the business of collecting debt in this
13 state and in several other states, with its principal place of business located at 333
14 North Canyons Parkway, Suite 100, Livermore, Alameda County, California
15 94551. The principal purpose of Defendant is the collection of debts in this state
16 and several other states, and Defendant regularly attempts to collect debts alleged
17 to be due another.
18

19 5. Defendant is engaged in the collection of debts from consumers using
20 the mail and telephone. Defendant regularly attempts to collect consumer debts
21 alleged to be due to another. Defendant is a “debt collector” as defined by the
22 FDCPA, 15 U.S.C. § 1692a(6).
23
24
25

FACTS

1
2 6. The debt that Defendant is attempting to collect on is an alleged
3 obligation of a consumer to pay money arising out of a transaction in which the
4 money, property, insurance or services which are the subject of the transaction are
5 primarily for personal, family, or household purposes, whether or not such
6 obligation has been reduced to judgment.
7

8 7. On or about August 8, 2012, which was within the first thirty (30)
9 days of communicating with Plaintiff, Defendant, in connection with the collection
10 of the alleged debt, demanded payment on the alleged debt without also informing
11 Plaintiff that Plaintiff could dispute the validity of the alleged debt and thereby
12 overshadowed the Plaintiff's right to dispute the validity of the debt.
13

14 8. On or about August 8, 2012, Defendant, in connection with the
15 collection of the alleged debt, contact Plaintiff and threatened to garnish Plaintiff's
16 wages.
17

18 9. Defendant stated that the garnishment could begin as early as the next
19 day.
20

21 10. Defendant has no standing to commence garnishment proceedings on
22 behalf of the creditor.
23

24 11. Defendant is a debt collection company and as a debt collection
25 company attempting to collection an alleged debt, Defendant can only refer the

1 matter back to the creditor with a recommendation that the original creditor
2 attempt legal proceedings which could result in garnishment.

3 12. The representations made to Plaintiff by Defendant regarding
4 garnishment were false.

5
6 13. On or about August 10, 2012, Defendant, in connection with the
7 collection of the alleged debt, contact Plaintiff and threatened to seize Plaintiff's
8 tax returns.

9
10 14. Defendant stated that Plaintiff was already in their system and setup to
11 have Plaintiff's taxes seized.

12 15. Defendant has no standing to commence legal proceedings on behalf
13 of the creditor.

14
15 16. Defendant is a debt collection company and as a debt collection
16 company attempting to collection an alleged debt, Defendant can only refer the
17 matter back to the creditor with a recommendation that the original creditor
18 attempt legal proceedings.

19
20 17. The representations made to Plaintiff by Defendant regarding legal
21 proceedings were false.

22 18. Within one (1) year preceding the date of this Complaint, Defendant,
23 in connection with the collection of the alleged debt, communicated with
24
25

1 Plaintiff's co-worker, who is not a co-signer on the alleged debt, and the
2 communication was not in a manner covered by §1692b of the FDCPA.

3 19. The natural consequences of Defendant's statements and actions were
4 to unjustly condemn and vilify Plaintiff for her non-payment of the debt she
5 allegedly owed.
6

7 20. The natural consequences of Defendant's statements and actions were
8 to produce an unpleasant and/or hostile situation between Defendant and Plaintiff.
9

10 21. The natural consequences of Defendant's statements and actions were
11 to cause Plaintiff mental distress.

12 22. Defendant utilized unfair and unconscionable means to collect on
13 Plaintiff's alleged debt, by lying to and misleading Plaintiff.
14

15 **FIRST CLAIM FOR RELIEF**

16 23. Plaintiff repeats and realleges and incorporates by reference to the
17 foregoing paragraphs.

18 24. Defendant violated the FDCPA. Defendant's violations include, but
19 are not limited to, the following:
20

- 21 (a) Defendant violated §1692c(b) of the FDCPA by contacting a third
22 party in connection with the collection of the alleged debt without
23 the consent of the Plaintiff and the contact was not in a manner
24 covered by §1692b of the FDCPA; and
25

1 (b) Defendant violated §1692d of the FDCPA by engaging in conduct
2 the natural consequences of which is to harass, oppress, or abuse
3 any person in connection with the collection of an alleged debt;
4 and

5
6 (c) Defendant violated §1692e of the FDCPA by using a false,
7 deceptive, or misleading representation or means in connection
8 with the collection of the alleged debt; and

9
10 (d) Defendant violated §1692e(4) of the FDCPA by giving the false
11 representation or implication that nonpayment of the alleged debt
12 will result in the garnishment of wages of any person when such
13 action is unlawful and the Defendant does not intend to take such
14 action; and

15
16 (e) Defendant violated §1692e(5) of the FDCPA by threatening to take
17 action that the Defendant does not intend to take and/or the
18 Defendant cannot legally take; and

19
20 (f) Defendant violated §1692e(10) of the FDCPA by using false
21 representation or deceptive means in connection with the collection
22 the alleged debt; and
23
24
25

1 (g) Defendant violated §1692f of the FDCPA by using unfair or
2 unconscionable means in connection with the collection of an alleged
3 debt; and

4 (h) Defendant violated §1692g(b) of the FDCPA by overshadowing or
5 being inconsistent with the disclosure of the consumer's rights to
6 dispute the debt or request the name and address of the original
7 creditor.
8

9
10 25. Defendant's acts as described above were done intentionally with the
11 purpose of coercing Plaintiff to pay the alleged debt.

12 26. As a result of the foregoing violations of the FDCPA, Defendant is
13 liable to the Plaintiff, Timesha Lee, for declaratory judgment that Defendant's
14 conduct violated the FDCPA, actual damages, statutory damages, and costs and
15 attorney fees.
16

17 **SECOND CLAIM FOR RELIEF**
18

19 27. Plaintiff repeats and realleges and incorporates by reference to the
20 foregoing paragraphs.

21 28. Defendant violated the RFDCPA. Defendant's violations include, but
22 are not limited to the following:
23

24 (a) Defendant violated §1788.17 of the RFDCPA by being a debt
25 collector collecting or attempting to collect a consumer debt that is not

1 compliant with the provisions of Sections 1692b to 1692j of the
2 FDCPA, the references to federal codes in this section referring to
3 those codes as they read as of January 1, 2001.

4 29. Defendant's acts as described above were done intentionally with the
5 purpose of coercing Plaintiff to pay the alleged debt.
6

7 30. As a result of the foregoing violations of the RFDCPA, Defendant is
8 liable to the Plaintiff for actual damages, statutory damages, and costs and attorney
9 fees.
10

11 **WHEREFORE**, Plaintiff respectfully requests that judgment be entered against
12 Defendant, Diversified Collection Services, Inc., for the following:

13 A. Declaratory judgment that Defendant's conduct violated the FDCPA and
14 RFDCPA.
15

16 B. Actual damages.

17 C. Statutory damages.

18 D. Costs and reasonable attorney fees.

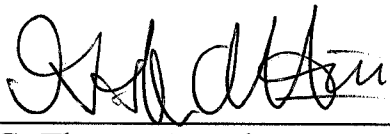
19 E. Awarding Plaintiff any pre-judgment and post-judgment interest as may be
20 allowed under the law.
21

22 F. For such other and further relief as the Court may deem just and proper.
23
24
25

RESPECTFULLY SUBMITTED,

DATED: September 28, 2012

PRICE LAW GROUP APC

By: 
G. Thomas Martin, III
Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff Timesha Lee demands trial by jury
in this action.